STUDIES IN ISLAM

SERIES

THE MODERATION OF ISLAM

By

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ABOUT THIS SERIES

Our knowledge of the Islamic contribution to world civilization needs to be fully understood and appreciated. Valuable work kas been done in this field by Muslim scholars from all countries; but the subject still offers a rich field of investigation.

The present series attempts to bring the Muslim heritage in all fields of knowledge to the attention of as many readers as possible. Islam, it should be remembered, led the early Arab community from a primitive state to a higher plane of existence. It is still the main source of inspiration for the various cultural achievements of the Muslim peoples everywhere in the world. In spite of minor differences, the imprint of Islam is evident in the culture of the Arabs as much as in that of the Iranians, the Turks, the Indonesians or the Muslims of the Indo-Pakistan sub-continent.

There is at present a crying need among Muslims to reassess modern values in terms of Islam. Many Muslims far and near bring their enquiries to notable and trustworthy ulama' and earnestly seek their guidance. This book, written by a distinguished Muslim jurist, Sheikh Madany, head of the Sharî'â Faculty at Al-Azhar University, is a serious and honest attempt to answer some of these queries. It gives a picture of the Muslim outlook on life and the Muslims approach to the fundamental problems facing us in our work, play, and dealings with our fellows.

Dr. SHAWKI SUKKARI

INTRODUCTION

THE AIM OF THIS STUDY

This study seeks to convince the Muslim reader that he is embracing the most perfect and fair of religions, that its principles, ideals, rules and standards are sound, and ensure the happiness of the individual as well as society as a whole.

It also seeks to help convince the non-Muslim reader of the same, so that any misconception that Islam is a dogmatic faith which falls short of providing the basis for a happy life may be dissipated. Likewise, this study aims at proving to the non-Muslim reader also that Islam constitutes a practical reform programme for mankind at large, that it views with tolerance those who believe differently, and that it is not as is claimed by its enemies, an aggressive or subversive faith.

THE CONCEPT OF THIS STUDY

The present study is based on a part of a Qurânic verse... "Thus we have made you a moderate nation that ye may be witness over all nations."

The study is not a commentary in the usual sense of the word. Its object is rather to elucidate the ***moderation of Islam;*** that is, the fairness of its regulations, of its ordinances as a standard which enables people

to distinguish between good and evil, right and wrong, reform and corruption, moderation and extremism as well as all opposing values which a man meets with throughout his life.

This trait of moderation into which Muslims were moulded through Islam invests them with the power of being arbiters among the nations of the world. For this faith, which combines fair principles and ideals in conformity with human nature, would of necessity produce a nation righteous and moderate and with moderation as part of its nature.

Other nations, which secured power through knowledge, have gained a place of leadership and guidance in the world. We Muslims have come to acknowledge the position which they hold and this recognition has not failed to reflect itself in our institutions, ideas, laws and manners. For instance, two men might differ on the interpretation of a certain legal text or the application of a certain principle. Each, in an attempt to secure victory over the other in the controversy, would readily refer to dicta pronounced by French jurists; or refer to a decision passed by the English judiciary or still point out a clause in the Belgian constitution, and so on. This is only indicative that we have set up Europeans in a position of revered authority in relation to ourselves and have adopted their principles and ideals. Thus they have become arbiters for us. This same attitude applies in the case of manners, etiquette and protocol.

The Qurân shows us that by so doing we have chosen a wrong position; that we have to appreciate

our true value; that we should not only realise that we are an independent nation with independent ideas, philosophy and principles, but recognize also that we were called upon to carry out a sublime mission in this world — a mission where we assume the position of leadership.

This is attested by the Qurân verse which says : "Let there arise out of you a nation inviting to good, enjoining what is right, and forbidding what is wrong."

Islam thus seeks to create a powerful public opinion where every individual feels keenly that he is a part of and has an obligation towards the nation as a whole.

To call for reform in all aspects of life and spread the call for good and righteousness is the duty of every Muslim. It is as obligatory as prayers, pilgrimage, Zakât (alms tax) and fasting.

Muslims are also duty-bound to recognize the fact that Islamic rules are the golden rules, that they are fitted for this life, and that their beliefs, principles and ideals are fair.

Now that doubt and atheistic trends have infiltrated the ranks of the intelligentsia, and Western values have captured the imagination of many of us, I feel myself under an obligation to produce this work.

METHOD OF THIS STUDY

Enthusiasm sometimes renders studies open to suspicion, both about the case under study and about the author himself. We therefore feel that a calm, factual

discussion of the case would be the most profitable. We intend to offer as objective presentation as possible of the different sides of the story, which would lead to conviction based on true understanding rather than authoritarian acceptance.

ASPECTS OF MODERATION

(i) Duality of Human Nature :

God has invested man with body and soul so that he may appreciate materialist things as well as moral values. He did not make man purely spiritual like the angels, since for life on this planet to flourish, it was necessary that man should have this duality in nature. Man must be material because the universe is material and were its inhabitants spiritual they would be out of place.

On the other hand, the spiritualism of man is just as essential, for if man was created in purely material guise, lacking in spiritual capacities and moral values, he would have been no better than the animals. Man would never have been able to conceive of God and worship him. Life, therefore, would have been an ocean of dark materialism unpierced by any ray of light from mind or soul which is the true secret of humanity and the reason for its being.

(ii) The Acknowledgement of Human Nature :

Having been created in this dual content material and spiritual, man's instincts and emotions ought then to be rightly recognized. We have to admit that man is full of the desire to eat, drink, dress, marry, move about, be moved by friendship and enmity.

We have to appreciate that, being human, man is ambitious and curious to discover the secrets of things, to find out their causes, that he moves from the unknown to the known, that he not only errs but pursues right ends, and that he faces dangers and embarks on adventures. To him this is all too natural. To order man to go against his nature is impossible; man cannot be told to stay in a cave or on top of a mountain feeding only upon its herbage and sipping raindrops. Equally, we cannot strangulate, or even arrest, human activity and block its attainment of cherished goals.

Man cannot be told to abstain permanently from the good things of life, since he was created to enjoy them. He cannot be asked to lead a solitary life when he is instinctively social. It is against man's nature to deny himself a wife because he happens to be an individual member of a species which is only complete when male and female mix.

It would be sheer stupidity to command him to set aside his mind and take everything for granted, for he was granted this mind by God himself to use.

Instinct, therefore, rejects that which is opposed to it. It is everlasting, and everything else is superimposed upon it or affected by it; it cannot remove it or transform it.

(iii) The Facilitating and Training of Instinct :

Islamic jurisprudence has recognized human instinct in all its ordinances, whether in dealing with dogma itself or with regard to morals and rites.

Moderation is the theme of all Islamic regulations in this respect. It is the prevailing principle. It thus strikes a happy mean upholding both the rights of the body and the rights of the soul and maintaining a balance between the needs of each. Islam has consequently been described as *the religion of instinct.*

The people among whom this religion arose and grew were described as moderate because their standards were moderate.

The Qurânic verse with which we opened this study stresses the fact that, since the people of this faith are the arbiters among the nations of the world, it follows that their standards are the most fitting and that the Muslims, being in possession of these standards, should be a model for all peoples as they had been before they discarded their mission and abandoned their stand.

The Prophet was the declared arbitrator in all differences concerning the interpretation or application of dogma and Shari'â regulations. The Qurân says : "By thy Lord, they can have no (real) faith until and unless they make thee judge in all disputes between them and find in their hearts no resistance against the decisions."

This was only logical, since the Prophet was the keeper of this Shari'â, charged with its interpretation, elucidation and application. Consequently, if people happen to come across any situation that leads to a difference in viewpoint, a decision of the Prophet would be the last word in the matter.

(iv) Simplicity of Dogma and Ease of Implementation :

Simplicity of dogma and ease of implementation constitute the principle underlying any of the Shari'â regulations. The following are a few examples :

(a) The idea of God in the conscience of a believer means all good. God commanded us to think about his work whilst we are forbidden to think about his nature. The reason is simply that His work is evident and is capable of being perceived by our senses as well as conceived by our mind. We can think about it as much and as profoundly as we wish, without any fear of getting lost.

God's nature, however, is beyond our minds which are accustomed to the use of standards and criteria, analogy and definition.

Thus, a believer whose faith in God is confined to the idea of an almighty, all-perfect deity, without going any deeper into the details of God's nature, is a man of perfect faith.

Some people became irretrievably lost when they tried to fathom with the help of their minds the depths of God's nature. Believing that they were able to conceive the nature and reality of God, they made comparisons and established relationships between God's nature and attributes, differing in opinion as to whether the latter were the same or different from the former, whether attributes exist by themselves or within the nature, whether they are as old or equally old, etc., etc.

These are but a few of the assumptions with which they kept themselves and others occupied and by which they opened wide the doors of doubt and sedition. These people could be said to have reached the same level of error as those who claimed that God has a son or that angels are the daughters of God. Both groups add to God the product of their imaginations, and try to picture divinity in a material form while the reality of man's self and soul, to say the least, still remains an object of the deep unknown.

Other people went to the other erroneous extreme by claiming that this universe is the product of chance and will continue to be driven by chance until something goes wrong, leading it to corruption and disintegration.

The two factions are guilty of error and, each stands at the farthest extreme of exaggeration; some believe in God but indulge their minds in a pursuit beyond the capacity of the mind, and the other deny the existence of God regardless of His undeniable work.

The Qurân addressing both factions, stresses that the right path is the one they had missed, saying :

"Verily, this is my way, leading straight — so follow it and do not follow other paths, for they will lead you astray."

In other verses Allah urges man to think about His creations and the way He controls the world. The Qurân says :

"Behold, the creation of heavens and earth and the rotation of night and day are indeed signs for men of understanding."

It also says :

"Behold all that is in the heavens and on earth."

Other verses are :

"Think of the beginning of creation. Contemplate how God gives life back to earth after it becomes dead."

"Travel around in the world and see (His work). Behold (His work) in your own selves."

Describing Himself and stressing the fact that He is beyond man's mind, God says :

"He is the irresistible, overtowering above his worshippers and He is the all-wise and all-Known. There is nothing whatsoever like unto Him, and He hears and sees everything."

"He is God, the one and only God, the eternal, the absolute. He begetteth not, nor is He begotten, and, there is none like unto Him."

"The creator of heavens and earth, how could he have a child while he had no mate ? He created everything and He is all-knowing He cannot be seen but He sees everything."

The Qurân did not tell us about the nature and reality of God but concentrates on pointing out His work and acts.

The Qurân, meanwhile, records the argument which took place between Moses and Pharaoh when Moses

announced that he was a messenger of God. Pharaoh tried to put Moses into a dilemma.

Pharaoh asked Moses : "What is God ?"

Thus Pharaoh questioned Moses about the reality of God. Had Moses tried to answer him, he would have put himself in an impossible position and one of endless controversy. If he declined to answer, he would have admitted defeat. Moses, however, had a wise reply to give to Pharaoh.

He said : "He is the lord of heavens and earth and what is in between."

In effect, Moses's answer was tantamount to telling Pharaoh that he could not ask about the reality of God because such a quest was above and beyond Pharaoh's mind. You could only ask about His work, Moses inferred, and then you would learn that He is the Lord and Master of everything on earth, in heaven and in what lies between the earth and heavens.

This answer was a fitting one. Pharaoh, naturally, was not satisfied and tried to draw out Moses further. Moses drew attention to another aspect of God's work by saying :

"He is your Lord and the Lord of your ancestors." This reference to man's creation by God was meant to drive home a clear proof of God's power which could not be easily denied or overlooked. Yet Pharaoh pointed out to the gathering present that Moses had not answered his question and charged him with stupidity.

Moses once more drew attention to the indisputably evident work of God when he added, "The Lord of East and West, referring to sunrise and sunset which are two constant and regular phenomena, providing irrefutable proof of the power of the Almighty.

This verbal battle between Moses and Pharaoh serves to illustrate the way in which Pharaoh insisted on venturing into the unattainable and on pursuing an endless road that leads nowhere, thereby sowing the seeds of doubt in the minds of the susceptible.

On the other hand, it shows an equal insistence on the part of Moses upon changing the discourse in the direction of a knowledge of God through a knowledge of His works and acts. This is certainly the path of believers — the middle road.

(b) Islam takes a middle stand between those who believe in determination and those who believe in free will.

There are verses in the Qurân which each one of these two schools of thought uses in order to substantiate its theory.

The controversy between the two schools is endlessly lengthy, but a man who objectively reads the Qurân can easily "see" the truth as it is expounded in God's book.

Every person doubtlessly feels two things together :

Firstly, he acts voluntarily or refrains from actions out of his own free will. Thus whoever claims that man

is driven against his will, like a feather in a storm, is someone who denies the self-evident.

Secondly, circumstances, universal and social and beyond man's control may sometimes block the exercise of man's will, or may sometimes coincide with man's will, with the result that this will is carried out and realized. Thus man's will is not overpowering or the most dominating factor.

Therefore, we come to the conclusion that since these circumstances are not basically and essentially the creation of an individual or a group of individuals but are ultimately an act of God, man has two sides — man may act and react voluntarily, yet he is driven by certain forces and subject to certain causes pertaining to God.

To sum up, man's actions are subject to a balanced system; he has a free will which he exercises within the framework of causes and circumstances.

This idea is understood from the verse : "Allah hath created you and your acts." Thus action belongs to man and creation belongs to God. The same idea is evident in the verse : "It was God who hit when you did."

And the verse : "You are invincible when Allah supports you, but if he forsakes you who else could back you ?" This explains why, when embarking on a certain action, we appeal to God to guide our steps.

The same applies in rites of worship and religious observance as well as conduct.

Prayer, for instance, means that man detaches himself from the world of materialism and is fused with the Spirit. This state takes place in certain definite and appropriate times so that man is not detached permanently from his worldly business and life; he is not allowed to indulge in this worldly material life completely till his soul is enslaved.

Fasting also is not complete abstinence by day and night, but rather a temporary deprivation for a short duration, following upon which man may enjoy the good things of life. In this way, a person has the opportunity of satisfying his material and physical needs while drilling and purifying his soul.

The same spirit of moderation is evident and explicit in regulations concerning the alms tax, marriage and divorce, war without aggression, punishment with justice and so on — a middle way without extremes or exaggeration in either direction.

Allah gives a general rule in this connection in the verse : "Oh ye who believe, make not unlawful the good things which God hath made lawful for you; but commit no excess, for God loveth not those given to excess. Eat of the things which God hath provided for you, beautiful and good, but fear God in whom ye believe."

The Qurân thus establishes one of the most important principles of Islam by which God has made the Muslims a truly moderate nation. This principle is based upon taking human instinct into consideration. The Qurân rejects the rites adopted by followers of other religions and by some philosophers, such as torturing one's soul by denying the body the satisfaction of its

natural needs in an attempt to refine and strengthen the spirit : The Qurân forbids this process. The joys of life were described as good, which means they do not harm body or soul. To enjoy oneself within the limits prescribed by the Shari'â is an act of piety and a sign of faith in God.

Scholars have explained the reasons for the revelation of those verses in several *hadîths* (sayings of the Prophet) as reported by al-Bukhari. The narrative goes as follows :

"Three persons came to the house of the Prophet's wives asking about the Prophet's acts of worship. When they found out, they said : "Where do we stand in relation to the Prophet ? God has forgiven him all his sins, both the early and late ones."

One of them said : "I will spend my nights in prayers." Another said : "I will fast the whole year." The third said : I will never marry." When the Prophet was told about the decisions of the three persons, he said : "By God, none of you could be more fearful of Allah than myself. Yet I fast and break the fast; I pray part of the night and sleep the rest, and I marry. Whoever rejects my way of life does not belong to me."

The Prophet has thus emphasized that moderation in worship is not incompatible with piety and fear of God. This was the middle course charted by the Prophet for his people. This course forbids deviation from the natural way of life, which proves the error into which

some people fall when they prefer rough garments rather than comfortable dress (i.e. if they can afford the latter), and coarse food to delicious nutritive meals, and abstinence to legitimate intercourse with women. Such deprivations certainly weaken the body and consequently the mind and soul.

(v) The following verses further illustrate our point :

"Oh children of Adam, wear your best apparel at every time and place of prayer. Eat and drink without excess, for God loveth not those given to excess. Say : "Who hath forbidden the beautiful and good things which God hath bestowed ? Say : "They are provided in this world for those who believe, and the enjoyment thereof is accepted on the day of judgement. Thus do we explain the signs in detail for those who understand."

These two verses prove the principle of moderation in Islam. They establish man's right to enjoy food, drink, dress, etc. within the limits which serve the interests of both body and soul. They also imply certain rules which make life easy and help to raise human standards materially and spiritually :

(a) The Qurân commanded people to be fully dressed whenever they go into the mosque. Commentators said that in pre-Islamic times men and women used to go around the Ka'ba stark naked, on the pretext that they could not worship God attired in clothes they had worn when they sinned.

The question of dress is, in fact, a matter of taste and custom. Some people, nudists for example, claim

that nudism is a return to the simplicity of nature. Another group of people, in an attempt to justify the deliberate practice of putting on poor clothes, claim that in so doing they are driven by a desire to reach closer to God through such a sacrifice.

Whatever the reasons or philosophy adopted in justification of nudism, whether actual or symbolic, complete or partial, the Qurân forbade it all.

The Qurân told the story of Adam and Eve at the time they were driven out of paradise. It is related that they both became conscious of their genitals whereupon they gathered leaves to hide them. The moral of the story is that by nature man abhors nudism, and that if nudism was accepted, it would have been plausible to have it practised in paradise. But it was not so.

The verse further says :

"Oh, ye children of Adam, we have bestowed raiment and plumes upon you to cover your shame as well as to be an adornment to you. But the raiment of righteousness is the best."

It is significant to note here that the verse mentions dress and plumes, the latter being additional accessories for ornament. It is also significant that as far back as the time of Adam dress was considered essential. God meant it to be a feature differentiating man from animal and a sign of human dignity and other values generalized in the verse :

"We have honoured the children of Adam, provided them with transport on land and sea, given them for

sustenance, things good and pure, and conferred upon them special favours above a great part of our creatures."

Another verse mentions the "raiment of piety and righteousness" which underlines further the necessity of dress in general, spiritual as well as material.

Another verse still says :

"Oh ye children of Adam, let not the devil tempt you in the same manner as he did when he got your parents out of paradise, stripping them of their raiments to expose their shame."

This is a still further reference to the fact that to be dressed up is one of the criteria of perfection.

The above verses were followed by the verse : "Wear your best apparel at every time and place of prayer."

It is clear that the matter is that people should be nicely dressed when worshipping, for if people appear in their best in the presence of a king, it is all the more reason to be so in the presence of the King of Kings.

It should be noted that the verses were addressed to the "Children of Adam" as a whole and were not addressed to a certain group specifically, since the command was meant for mankind at large and has the broadest human significance.

(b) The latter part of the verse speaks of food and drink. Eating and drinking are two natural functions practised both by man and animals. The question

which may come to one's mind is why they should form the theme of a divine command addressed to man exclusively. Would such a natural biological act need any guidance ? The answer is that the command is surely meant to lead to the limitation which followed and which was embodied in the other command, namely, "without excess". The verse aims at saying : "Satisfy your nature but without exaggeration." The same limitation applies, in my opinion, to dress and adornment.

The Qurân orders moderation in every facet of man's life. The Prophet followed the same line in his teachings. He said : "Eat, drink, dress and alms; do not be excessively niggardly or excessively extravagant."

Ibn Abbas said : "Eat to your satisfaction and dress to your taste without miserliness or extravagance."

(c) The verse that followed was addressed to the Prophet in the form of a disapproving question. It said : "Who forbade the adornments of God which He hath provided for his servants and beautiful gifts ? " This emphasises a few essential stipulations.

The original rule is that everything is lawful for man except when there is a specific provision to the contrary. This rule is based on the verse : "God hath created for your enjoyment everything on earth." Man, therefore, shall not forbid anything without legitimate evidence to support the opposite stand. Without the existence of such evidence anything is considered lawful. This rule is applied to any form of dealing not known before, unless there is proof to the contrary.

This proof, moreover, should be on an authentic Sharîa basis and not a mere verdict based on analogy, or stemming from sheer puritanism.

Furthermore, attributing the word "decoration" to God means that it is not only legitimate, but also that God wishes people to enjoy it.

Still another point of interest which derives from the Qurânic verse is that Islam calls upon people to enjoy the good things of life rather than be satisfied with the essentials. Islam calls on people to look forward to a better standard of living, to a decent and dignified life. To attain this objective one has to work more, produce more, and exercise initiative and enterprise. This all leads to development of the economy and the progress of civilization. The result is peaceful and honest competition worthy of God's appreciation.

This meaning is emphasized by the verse saying that the good things of life are provided for the believers in this life and for the enjoyment of which the believers shall not be taken to account on the Day of Judgement. The reference to the believers in this verse is intended to signify that believers know God's restrictions and abide by His rules.

(vi) A basic principle of the Islamic Shari'â, a principle of vast educational and social importance, is included in the Prophet's teaching-namely, that, "Acts are judged by intentions and everyone is rewarded accordingly." This rule is confirmed by the Qurân and Sunna.

According to a verse of the Qurân :

"Verily, : We have revealed the Book unto thee in truth, so serve Allah in sincere devotion." Another verse says : "When a matter is resolved upon, it would have been best for them were they true to God.', A third verse says : "They were commanded only to worship God devoutly and sincerely, offer their prayers and pay *Zakât,* and this is the right religion." These and many other verses help to prove that the basis of action is sincerity; good faith and honest intentions.

It is not incompatible with good intention in worship if a man couples with an act of worship a plausible and honourable worldly intention. This again stresses the fairness and moderation of the Islamic Shari'â.

For instance, it would not detract from a man's reward were he to go to the mosque in order to pray and enjoy the company of the other people present in the mosque.

Again, a man may fast (apart from the obligatory fast of Ramadân) for reasons of health. Similarly if a man should wish, in addition to performing an obligatory rite like pilgrimage, to see Mecca, enjoy a vacation, or get away from the tedious routine of every-day life. It is reported that the Prophet resorted to prayers whenever he felt like relaxing and shedding some of the burdens of material life. He used to say : "In prayers I find perfect solace and relaxation."

A man should not be in error if he gave charity for its sake but also in order to experience the pleasure of giving. The Caliph Al-Mansour used to say : "If

people knew how much we enjoy forgiveness, they would not have missed a chance to do us wrong." Forgiveness of course is an act of worship favoured by God.

The moderation of Islam and the significance of the intention prompting a certain act are further illustrated by the fact that the Imam (leader in group prayer) may cut down the prayers to the legitimate minimum if the group includes even one aged person. The same thing was done by the Prophet when the group he led happened to include a mother whose child started to cry enabling her to take care of her child.

In contrast, the *Shari'â* rejects covert bad intentions and ulterior motives. God punishes the act of going at one's objectives in a devious way.

In fact, the first penalty to which mankind was sentenced was when Adam and Eve were driven out of Eden because they sought to attain immortality by the wrong way — disobedience to God's command. Adam and Eve, were deceived by Satan who told them : "Your lord only forbade you (to eat from) this tree lest you should become angels or immortal."

There are many verses in the Qurân which show that God punishes ill-intentioned persons, inflicting upon them the opposite of what they were seeking to achieve. These verses include the following : "They have taken gods other than Allah in an attempt to gain power. Nay, these gods will reject them and turn against them." And "Evil will harm only the authors thereof."

Islamic jurisprudence deprives a person of his right to inheritance if he kills the person from whom he would have otherwise inherited.

A man who marries a divorced woman before the end of the waiting period shall have his marriage annulled and can never marry her.

A man who divorces his wife on his death-bed in an attempt to deprive her from inheritance shall have his divorce oath annulled and the woman's rights are reinstated.

A man who claims that another has committed a sin punishable by law and is later proved to have committed perjury shall be sentenced to the same punishment he meant the other to suffer.

These are but examples illustrating the principle that action is judged by intention. It thus became abundantly clear that Islamic Shari'â sought justice and moderation while foiling dishonest intentions.

(vii) Charity is another field where the moderation of Islam is apparent.

According to the Shari'â charity should not lead the donor to become destitute and, therefore, should not exceed more than one-third of a man's wealth. The significance is that there is no sense or purpose served in trying to rehabilitate somebody by depriving oneself or one's family. The Prophet said : "The best charity is given from the surplus." That is to say that its source should be a man's profit.

It is reported that a man came to the Prophet with a piece of gold to be distributed as charity among the poor saying "I have nothing left."

The Prophet returned it to him and said : "It is wrong for a man to give away all his wealth to become a burden on the community." By so doing, the Prophet aimed to show that charity should not be a cause of poverty which in turn damages the structure of society.

Another story contributing to the elucidation of this principle was reported by Abu Sa'îd al-Khurî. He said : "A man entered the mosque where the Prophet and a group of Muslims were present. The Prophet, noticing that the man was poorly dressed invited those present to give up some of their garments. They did so. The Prophet then invited the people to offer charity and the poor man immediately gave up one of the two garments he had just received. The Prophet instantly ordered him to take back the garment." The idea was that in giving up the dress the man was donating half his property, a ratio which was unacceptable since it was not moderate.

A well-known story is also told of a man asking the Prophet's permission to donate all his money to charity. The Prophet refused him permission and the man reduced his offer until he reached one-third. The Prophet, while accepting the offer, instructed the man that the one-third was a high percentage and the ceiling where charity must stop.

The Prophet's teachings in this respect are based on the teachings of the Qurân. The Qurân says : "Neither be niggardly nor extravagant (in charity), for then you will be overcome by grief and regret." It also says : "Pay the dues on the day of harvest with-

out excess." This verse refers to *Zakât* (alms-tax) which is obligatory. Hence, God commanded that it should be paid promptly on harvest day.

Another verse upholding the principle of moderation says : "Render unto kindred, the poor and the wayfarer their due. But squander not, for squanderers are the kin of devils."

Islam gives priority of right in terms of charity to those whom a man is responsible for maintaining. The Prophet says : "Begin by those whom you provide for."

Even that which a man spends for his own purposes is considered charitable. A man told the Prophet : "I have a dinâr (a piece of coin) which I want to give as charity." The Prophet said : "Use it yourself." The man added : "I have another." The Prophet said to him : "Give it to your wife." The man went on : "I have a third." The Prophet said : "Give it to your children." The man insisted : "I have a fourth." The Prophet replied : "Give it to your servant." The man at last said : "I have still one more." The Prophet finally said : "Do whatever you like with it."

This story helps to show that charity is whatever a person spends to satisfy his personal and family requirements as well as to help the poor. Hence, the falseness of the claim made by some people that charity is humiliating and degrading to the poor.

The meaning of charity was even extended by the Prophet to include good deeds regardless of their nature,

material or moral. He said : "Every good deed is charity."

Islam permits the giving of charity openly as well as secretly, but each case depends on the circumstances. The Shari'â did not overlook those subtleties.

Manifest charity may be useful if it is meant as a good example or to urge others to follow by stirring their sense of generosity. Meanwhile, the case may be one where charity should be discreetly given, as in offering it to someone who once was well-off, or when the donor whishes to guard against vanity.

The Qurân said : "It is well to declare your charity, but it is better still to give it discreetly."

The Prophet said : "Blessed be the man whose left hand is not aware of what his right hand giveth."

On many occasions, however, the Prophet urged that charity be declared or given in the open. He used to invite charity and collect it in public in a manner similar to the modern practice of gathering donations and contributions. Clearly society faces differing sets of circumstances some of which call for declaration and others call for discreetness in giving. The Sharî'â provides a fair solution by stipulating that the nature of the circumstances be taken into consideration.

A further note is necessary before concluding this discussion of Islamic moderation in charity. In certain cases, Sharî'â allowed certain people — the great, truly generous and highly-placed — to exceed the proper percentage in charity to the extent of giving up all their

wealth. These cases were allowed because of specific reasons and in the service of specific public interests. Such people are certain not to regret whatever sacrifices they make.

For example, the *Ansâr* (the people of Medina who supported the Prophet and his new faith), used to give whatever little they owned to the immigrant Meccans. They were lauded by God in the Qurân : "They gave them preference over themselves though poverty was their lot."

The urgent situation of the immigrants rendered this act necessary. The new Islamic society in Medina, in the circumstances then prevailing, found it imperative that money should be handed over in this way. Under such circumstances, poor though a man might be, if he could afford it he might well give as charity whatever little he has. Those who tried to belittle the good act of the poor charitable person have been reprimanded by God. He said : "Those who slander and ridicule believers who volunteer charity, though having nothing to give but their labour, shall be ridiculed by God and sustain great torment." The verse refers to people who volunteered all they had, however little, in times of emergency and catastrophe. The moral is self-evident — little things add up to much. Again, a poor man giving up all that he owns provokes the wealthy to contribute much.

The story is told of a man from the Ansâr who received a guest one night. His wife told him that there was only enough food for their children. The man ordered her to put the children to bed and turn out the light,

then present the food to the guest so that the guest might not notice that the host was not eating.

A glorious example of sacrifice is provided by two of the Prophet's companions, Omar Ibn Al-Khattab and Abu-Bakr. The Prophet ordered that charity be collected for later distribution among the needy. Omar brought in half of what he possessed. The Prophet asked him : "What did you leave for your family ? Omar replied : "As much." Abu-Bakr brought in all that he owned and in answer to a similar question from the Prophet about his family said : "They have Allah and his Messenger."

But those were special cases involving people of great spiritual initiative and leadership. What was allowed them could not be the general rule.

ISAMIC LEGISLATION

IN MARRIAGE AND DIVORCE

Marriage is one of the rules of nature which must be practised to preserve the human species. For that reason, God Almighty created man and woman in such a way as to make them like each other and wish to consort with one another. He also drew the attention of mankind to that in one of the verses of the Qurân : "And among his signs is that He created for you mates from among yourselves that ye may dwell in tranquility with them, and He has put love and mercy among you. Verily, in that there are signs for those who reflect."

This *"sign"* denotes the power of God Almighty and His wisdom in drawing the attention of man to the important things which he has created to make life easy and tranquil for him...

"And among His signs is the creation of the Heavens and the earth, and variations in your language and your colours." "And among His signs is the sleep that ye take by night and by day and your seeking of His bounty." "And among His signs He shows you the lightning, by way both of fear and of hope, and He sends water from the sky and with it gives life to the earth after it has been dead."

All this indicates to us that the Qurân looks upon marriage between man and woman as matter of universal significance and of great value comparable, in the estimation of God, to this power over Heavens and earth, the change of day and night, the variations in the colours and tongues of people. In short, marriage is a mighty, universal, *sign;* it is also gift out of the generosity of God to His subjects. He also shows that the first and last aim is "tranquility", peace which enfolds husband and wife, the mutual confidence which makes each secure and peaceful with the other. Another goal of marriage is love and physical attraction of the one towards the other, which makes both happy and causes each to find delight in the other. As a result of all this there must be compassion between the two. Without it neither of them feels that he has a mate next to him, a mate who shares his sorrows and joys, who shares the burdens of life voluntarily and contentedly.

This is marriage, and this is the place it occupies in the rules of God and the order of creation.

For these reasons, God looks upon this wonderful relationship as a holy one. All prophets and revealed books agree to that. Its sacredness is not something that changes with differences of religion. It is not also liable to change with time or place, nor does it become invalidated by any philosophic theory or any realistic concept which might try to falsify it or make people doubt its validity. The Qurân refers to marriage and the relationship it entails as "the tie of marriage", indicating that it was something firmly knotted and not to be broken.

"Whoever rejects evil and believes in God hath grasped the most trustworthy hard-hold, that never breaks."

The Qurân describes the relation of marriage as a "solemn covenant." In referring to the status of wives it says : "And they have taken from you a solemn covenant."

The word "covenant" is used in the Qurân to denote the compact between God and his creation, and between him and his Prophets... "And remember the favour of God unto you, and His covenant which he ratified with you when you said : "We hear and we obey."

"Behold God took the covenant of the Prophets, saying : "I give you a Book and Wisdom, then comes to you an Apostle, confirming what is with you, in order that you believe in him and render him help."

"And Lo God took a covenant from the people of the Book, to make it known to mankind and not to hide it."

The word "covenant" is also mentioned in relation to the vows of God to his Apostles. In the Qurân we find, for example : "And remember, we took from the Prophets their covenant as (we did) from thee, from Noah, Abraham, Moses, and Jesus the son of Mary, We took from them a solemn covenant."

The use of the phrase "solemn covenant" in relation to marriage and in relation to the prophets and apostles, points to the sacredness of the institution, a sacredness which in the eyes of the Qurân equals that

attached to the Holy of Holies, the covenant of God to His apostles and prophets.

It is only natural that the jurisdiction of Islam, which calls for mercy, should be in accord with the concept of preserving this relationship, this "solemn covenant." Islam says that the breaking of this tie is not viewed favourably in the eyes of God. It is allowed, however, in view of any difficulty or damage to the relationship which might arise and which would make it impossible for the partners to follow the ordinances of God. But this is allowed with considerable reservation.

It is understood that he who divorces for no reason or for a reason that is not recognised by the legislator, or who divorces in a way that differs from the rules of Islam, is a wrong-doer who takes the words of God lightly. The Prophet used to say whenever he heard of such a case : "Do you take the Book of God lightly while I am amongst you."

The Qurân says : "Do not treat God's signs as a jest, but solemnly remember God's favours to you and the fact that He sent down to you the Book and wisdom for your instruction. Fear God and know that God is well acquainted with all things."

This is an exhortation to husbands and a warning that they should not treat lightly the relationship of marriage, or the rules of divorce, or so beyond God's ordinances.

This also prevents a wife from asking for a divorce for no recognised reason. It is mentioned that Abû

Da'ûd said, on the authority of Thawban that the prophet said : "Any woman who asks for divorce for no reason is to be prevented from smelling the scent of Heaven", and again : "A woman who asks for divorce for no reason is a hypocrite, who shall not enjoy the scent of Heaven."

God Almighty teaches us that if a conflict arises between man and wife we should send an intermediary from her people and another one from the husband's people, who try to mend the relationship. Marriage should not be broken unless there is no way of mending the conflict. If this happens, the two intermediaries should not themselves break the marriage, but should witness that he or she is in the wrong and should raise the matter before a judge. It has been questioned whether the judge after hearing the testimony of the intermediaries, is empowered to separate the two. Some say he should not, and according to Ibn Hazem, the famous Muslim jurist : "There is no mention in the Qurân or the *Sunna* that the intermediaries or the judge have the right to break a marriage."

This again is another obstacle in the way of divorce which is looked upon with favour in Islamic jurisprudence.

Husbands are also warned that they should not divorce if they have continued to enjoy relationship with their wives. This also aims at creating a feeling of forgiveness and generosity between the two which might make easy the resumption of marital life. If any serious rift happens then the wife is not allowed to come near her husband; he should wait until her monthly period

is over before divorcing. This gives him time to reflect and think. If the two come together in a normal instinctive way, this might overshadow their quarrel...

"Perchance God will bring about thereafter some new situation."

From that it is apparent that God Almighty allows of divorce under strong reservations, one of which is that it should pass three phases. If a husband divorces his wife twice and remarries her twice it is legal. After the third divorce a husband cannot remarry his wife unless she is married to another man who divorces her. Then she can marry her former husband.

Why does Islam call for this ? To give two chances for the husband and wife to reverse their decisions, the man in his capacity as a strong-willed person and head of the family. If a certain time lapses between divorce and reconciliation, then they are required to have a new marriage certificate. The husband and wife are allowed to disagree and have a divorce twice only. If the divorce occurs a third time, then it is somewhat difficult for reconciliation, since the wife had to marry another person, live with him, have him divorce her and then she can remarry her former husband. This is meant to be a warning to husbands, because no man lightly accepts the taking of a wife who has mated with someone else. We find, therefore, that most husbands think twice before going through the third divorce.

The Islamic religion looks upon the marriage link as something permanent. The breaking of this link is not to be normal practice. Divorce should not be resorted to unless it is the only way out of an impossible

situation between husband and wife. This also gives the two parties a chance to resume a happier life with another partner. There is, therefore, an element of mercy in approving divorce.

It is against the background of what has been said above that we must interpret the words of the Prophet : "The most distasteful of the actions allowed by God is that of divorce."

Similarly, the words of the Qurân : "If they wish for peace God will cause their reconciliation, for God hath full knowledge and is acquainted with all things."

To sum up :

I. — Marriage is an instinctive law of nature upon the basis of which God has created the world. It is one of His Gracious gifts to mankind.

II. — Religion bestows upon marriage all that is due to it in terms of care and sanctity.

III. — God wants permanency for the tie of marriage, wishes that it should remain a source of happiness and co-operation to both partners.

IV. — God does not wish this tie to be broken, He has, therefore, laid many obstacles in the way of divorce. It is only allowed after several unsuccessful attempts at reconciliation have failed and after extensive self-examination.

V. — If, after all this, it is permitted it is for the continuation of life and as a salvation from a relationship that has become corrupt and useless.

Divorce is permitted in order to give both the man and woman a chance to carry on in life with a different partner — which again is for the good of the community.

THE SOCIAL STATUS OF MAN AND WOMAN

Successful legislation is that which is best adapted to the nature of mankind, suited to it, not denying this nature, nor opposed to this reality. Any normal community of man or animals consists of males and females. God has given each his or her own functions which help in propagating the species. A male is physically different from a female; he is also different in his mental capacities and emotional trends. Whoever denies this is denying manifest reality. Any argument would be of no avail with such a person and we do not address ourselves to him. We address ourselves to those who wish to know the truth so that they can avoid doubt and scepticism. That done, they can follow a life of faith and reason through conviction, not through mere acceptance.

Another point we would like to put in the form of a question is this : To which of the two sexes was given the stronger physical power ? And why... ? Which of the two was endowed with softness and leniency ? And why ? If so, is it suitable to burden this sex with that which by the laws of nature, needs a stronger physique ?

If the laws of nature call for equal treatment what are the functions of a man and what are those of a woman ?

I think that we all agree to the answers to the above questions. If we agree that the two sexes are provided by nature with special functions, we should agree as to the answers which these questions entail.

The woman is a mother, and a nurse. Does she have need of such a complex nature in supervising the raising of her children, or should she retain her soft, lenient, character in dealing with them ?

Woman is a wife, made for her children. She is the first home of man when she carries him in her womb in the first stages of his life. She should, during her time of pregnancy, provide him with quiet and care so that he comes out into the world fit and strong. A pregnant woman should avoid distress because it affects her child.

People in olden times thought this to be true about the mother and the person who weans and feeds her child.

Modern science has confirmed this fact. It goes even further and says that a troubled home atmosphere affects the children up to the age of adolescence.

Knowing all this, and recalling the words of the Qurân : "Your wives are an acquisition unto you", should a woman undergo hardships and emotional disturbances ?

If the woman leaves this, her domain, who would replace her ? Is it the man ? We know that his physical structure does not conform with this function, and that he is not made for it. Is it a nurse or a servant

who takes care of the children and their upbringing ? Again we find that it is a woman who undertakes the job. The mother is better entitled to it; she is happier and better fitted to perform it.

Nevertheless, education is an obligation in Islam that devolves upon the person himself. Every man and woman should try to educate himself and herself for the better. As for raising children and looking after the house, this is determined by the ability of the person concerned. That means that if some people do it better than others, then it becomes their responsibility. That is why, in olden times, a chieftain was chosen for his capacity to lead others. If he refused, he was beaten and punished because he was opting out of a position which only he could fill.

The Islamic principle, which conforms with right and justice, says that a *Wali* should not choose a person to lead others if among the others there is someone better than he. If a Wali does that he again shall not enjoy the sweet scent of Heaven.

Islam is following the rules of logic when it implies that one of the two, that is the husband and wife. should be the head of the family — a system which works in any community. The husband was chosen because he is the one more fitted. Men are the protectors and maintainers of women because God has given them more strength than the others, and because they support them from their means.

This preference is based on two principles :

" i" Man is the stronger and thus he is more fitted for the job.

"ii" He has the larger responsibility and so should have the authority.

If Islam chose the woman it would be against all principles which call for the right person for the right situation. It would also be in opposition to the rules of nature.

"iii" A man has the time to do this. He also has the patience to cope with difficulties that might arise in this position and the responsibilities that go with it.

Here we should underline two things :

Firstly, this applies to general affairs, affairs of policy. As for dominance over special limited matters, Islam approves that a woman can practise it — it is not against religion. This is very just and reasonable, for how can a woman who is burdened with pregnancy decide on an urgent and serious matter ?

Secondly, Islam does not give the man this right to be taken and held to regardless of circumstances. If we suppose that any community is short of men who are fit to take leadership, and possesses the women, Islam does not refuse the woman this right. This would then be the only recourse for the good of the community. We find that here Islam is not tinged with obstinacy, but prefers the common good in an unusual situation to the general evil that might result.

A question might come to our minds at this point. Why then did Islam consider the testimony of a woman as half that of a man ?

This question points to the reference in the Qurân : "And get two witnesses from your own men, And if there are not two men, then a man and two women, such as ye choose, for witnesses, so that if one of them errs the other can remind her."

This means that a woman's testimony is half that of a man, in the sense of the admissibility of testimony. As for her substantiating of this word, we need only one woman.

A witness has two obligations : in the first place, his obligation as a person who has seen the incident and knows how it has happened and reports it. Secondly, his obligation when he stands before a judge and reports what he has seen.

The Qurân refers to his first stand. There is nothing to prevent a judge from taking the word of a man or woman in the first situation. Then a woman's witness is equal to that of a man. The other woman is brought in to make sure that the first is telling the truth and to remind her if she forgets. Ultimately, a judge takes the witness of one man and one woman if the other agrees to what the first says. In the giving of witness the Qurân does not differentiate between a man and a woman. In the sustaining of this testimony the Qurân asks for two women as opposed to one man. The latter is a position of assurance, of added assurance and security. Since the status of a woman in the Islamic community differs from that of a man in as much as he is the one who has dealings, who gives and takes, buys and sells, owes and is indebted, has commercial contacts, then she should keep away from all that. It is the cus-

tom in Islam that a woman delegates a man to undertake her business dealings. This is not because of any defect in her or disrespect towards her, but to keep her in her reserved place away from anything unsuitable to her position.

For all of these reasons, a woman is looked upon as someone who has no "know-how" in dealings of this kind. Since it is not her function, she should not busy herself with any such complication. For that reason also, she should have another partner to remind her if she leaves out any particular portion in her testimony.

This does the woman no harm. At the same time, it is not an advantage to the man. It is only putting things in their right place. It is a just judgement arising from an analysis of woman and her social status.

On the contrary it must be regarded as honouring woman and not debasing her.

AN ENQUIRY INTO THE BASIS OF ISLAMIC LEGISLATION

There are two kinds of rules in Islamic legislation :

First of all, rules that are proved and do not change with time or place, and are agreed upon. They are rules that are not open to discussion. These include beliefs which differentiate between Muslims and Non-Muslims, such as the Unity of God, His apostles, His books, Muhammad as the last apostle, resurrection after death, retribution in the other world, God is perfect, the Apostles are faithful.

All these are matter for belief and not discussion. These are facts, permanent ones, with no possibility of any change. Secondly, practical rules which appear in the *Shari'â* and are open to choice, to practice or non-practice.

These include prayers, Zakât, fasting Ramadân, the Pilgrimage, the prohibition of killing human beings outside of the cause of justice, the vain consumption of wealth, the proscription libel, adultery, the propagating of vice, etc..., etc...

Then there are the over-all rules which are taken from Shari'â verbatim, and are used as the basis of judgement. For example "He has imposed no difficulties on you in religion" meaning that the aim is to make religion easy not difficult. There are also the rules not mentioned explicitly in word or meaning, but alluded to in a way that gives scope for double meaning. This second kind is subject to interpretation and difference of option and explanation :

I. — Over some words like fate and destiny, over whether there are some who see God, over the differences among Muslims themselves which led to war, and so on.

II. — There are also differences in legal ruling on some aspects of marriage, on whether two persons fed from the same breast should marry each other, on the question of retaliatory punishment in case of murder, on whether a woman be allowed to marry a man who is not approved by her guardian..., etc.

III. — The Qurân itself was the subject of difference of opinion as to whether it should be transcribed or not.

The wisdom and the aim of Islamic legislation in presenting these two kinds of rulings, lies in the fact that no good can accrue for any community if its laws are not to be argued upon and discussed. Faith should not be left to personal interpretation and individual scepticism, just as relations with other people cannot be based on personal liking and disliking. God the Merciful, has drawn the line within which people act in relation to one another. As for facts, the basic facts, are not to be discussed. But details of these facts and separate items could be differed upon without any harm being done. This difference could apply to the theoretical as well as the practical, for minds should be stimulated.

Islam does not deny to the mind this function. Islam allows for re-study under different circumstances, and at different times and places. Islam calls for unity for the common good.

THE MANNER OF LEGISLATION, RELATING TO FAITH, OBSERVANCES, AND DEALINGS

The Islamic legislature has three fields in the lives of people where its rules are put into effect. These three are :

The domain of faith.

The domain of observance.

The domain of dealings.

The system adopted in each domain is either informative or innovatory, or critical.

To elaborate on that, articles of faith that are imposed upon us by religion are established facts with a real existence. In that, they differ from principles and rulings which are created to help people in their dealings and which can change with time and place. In short, articles of faith cannot be changed or rewritten once they appear. Belief in God is an article of faith. His qualities are again established truths. The message, the inspiration, the revealed books are also truths, as are resurrection, retribution and punishment. Heaven and Hell and redemption and punishment. Religion's part in them all is exploratory and guiding, proving that they are truths and convincing people that they are. Religion did not create them and does not, therefore, have the right to change them.

Observances are different. They were defined by God and people were then ordered by Him to practise them. Prayer is an observance performed in a certain way; certain set words are used in it and it is performed at certain times. Fasting is abstaining from eating and drinking and any temptation for a specified time. The Pilgrimage is the visit to a certain place at certain time in accordance with certain stipulations.

Therefore observances are different from faith, in that they are not truths to be revealed by the legislator. They are aspects introduced by God Almighty in his power to create and order and be obeyed. That is why

legislators say : "God is to be worshipped in what He orders."

The basic idea of observances is that they are practised only after God has given indication. He informs us of their form and aspect. No other person can invent an observance of his own. No one is allowed to dispense according to his wish with any aspect of established observances, and then claim that he worships God. On that the Qurân says, blaming the unbelievers :

"Or they have partners who have seen fit to present them with an aspect of religion not permitted by God."

According to this, heretical innovation in matters relating to faith and observance was prohibited. He who wishes to draw near to God should do so through His divine ordinances. He who tries to reach Him otherwise, no matter how obedient and faithful in appearance, is a heretic who is trifling with religion.

For instance, if one says : "I will make my midday prayers five instead of four," or he who says : "I shall face Jerusalem instead of the Ka'aba in my prayers" or he who says : "I shall fast the month of Sha'ban instead of the month of Ramadân," or any other such statement, would be committing an infringement of faith and would be denying God His right to formulate the ritual of His own worship.

As for the position of the legislator in connection with dealing and commercial transactions, we find that

it differs completely and essentially from his position in matters of faith and observances.

Islamic jurisprudence did not create for people the precise patterns of mutual exchange and co-operation and dealing with one another. It simply found ways of dealings which it either approved or disapproved of. It ratified or revised or cancelled. Islamic jurisprudence does not interfere in the domain of transactions except in so far as it protects its ideals and principles. With its rulings it facilitates relations and helps to ease matters and eliminates the causes of disagreement and discord. It unites individuals by love and co-operation, aiming at piety and sound faith.

That is what the Islamic jurisprudence tells us about the Prophet's own position. Medina was a place where markets were held, and where commercial transactions were usually carried out, and where buying and selling took place and loans and mortgage drawn up. He did not create all this; He found it already in existence. The Prophet's position was that of constructive criticism only. If such and such an operation were to people's benefit and no harm came from it, he accepted it. When he disapproved he said so, and tried to improve and revise from the stand-point of the common good.

This was the stand of the Apostle in relation to transactions at Medina and this also was the stand of Islam.

As was the case with the rule relating to belief and observance — "God is worshipped through His legis-

lation," we now find a new rule relating to transactions — "Transactions are free and open unless there is good reason for banning them."

On this point the scholar Ibn Qaîm says that observances are practised only when there is indication, but dealings are left free unless there is prohibition.

The difference between them is that in matters relating to worship, God is being worshipped through His own legislation which he has ordained and with which he is satisfied. As for contracts and dealings they are acceptable unless they are proscribed.

What God approves should be practised. There are things that He has not prohibited and these are allowed. There is one important point as regards the viewpoint of Islam on business transactions between people. Some of these, though allowed by the Apostle, are looked upon according to some students of Islam as an exception. They insist that what applies to them should not apply to others. This viewpoint stands in the way of evolution and is an obstacle to progress. Such a stand is opposed to that which has already been mentioned — that transactions are free unless they are proscribed. The legislator does not resort to general prohibition. On the contrary the rule is to allow them and the exception is to forbid them.

The result of this analysis is that we can draw up a system for modern dealings. This system is based on three points :

1. The Islamic community has the right to initiate new kinds and ways of dealings and transactions,

and cope with modern international economic activity by participating in it by way of modern methods. God has not imposed on His creatures a special kind of transactions which they should not exceed. The laws and rules of transactions are open to revision according to, and within the limits of, legislations, and according to the common good.

If Muslims recognised that and acted according to its precept they would be proving to the world that the accusations levelled at them were ill-founded. These accusations imply that Islam is a religion that stands in the way of progress, and that Muslims, for this reason, cannot integrate themselves in the modern economic world, since their religion forces them to adhere to a set of obsolete ordinances in terms of commerce and trade.

2. The second point is that transactions are allowed without any reservation until it is clear that they are not approved by God.

3. If a transaction contains some aspect that is illegal, that is no pretext for prohibiting it altogether. This aspect should be studied together with the reaction of the people to it. The study may reveal that its good points exceed its bad or vice versa. One may have to overlook the bad part in relation to the good for the sake of facilitating dealings amongst people. This may open the way for revision.

This moderate outlook of Islam towards business transactions is a very realistic one. It is, at

the same time, an outlook which confirms with the laws of religion. It calls for unity, and confirms the source of faith, which originates with the Almighty.

Islam also allows for progress and evolution. This is one of the noteworthy aspects of the moderation of Islam.

THE RULINGS OF ISLAM ARE WITHIN HUMAN CAPACITY

One of the most important aspects of the religion of Islam is that it asks for obedience within the scope of human capacity and endurance. No two legislators of Islam can disagree on this fundamental fact and the Qurân itself emphasises it...

"God intends every facility for you, He does not want to put you to difficulties."

"God wishes to lighten your difficulties for man was created weak."

"On no soul doth God place a burden greater than it can bear."

"It is part of the mercy of God that you deal gently with them, were you severe or harsh-hearted, they would have broken away from about you."

"Those who follow the Apostle, the unlettered prophet, whom they find mentioned in their own (scripture) in the Torah and the Gospel. He commands them what is just and forbids them what is evil, he allows them

as lawful what is good (and pure) and prohibits them from what is bad (and impure). He releases them from their heavy-burdens and from the yokes that are upon them."

God has also taught us to address him : "Our Lord ; Lay not on us a burden like that which you laid on those before us. Our Lord ! lay not on us a burden greater than we have strength to bear."

This was confirmed throughout the Qurân and by the Sunna of the Apostle, who says : "I was sent to preach a merciful religion, a gracious religion." It is related that the Prophet, if asked to choose between two opinions, chose the more merciful, as long as it was not prohibited. He was asked about the Pilgrimage and whether Muslims should go on it yearly. He answered : "If I said yes, then it would become obligatory." He also declared that the Muslim who claims that a thing is forbidden when it is not, in order to suit his own purpose is a criminal towards his Muslim brethren. He also said : "God ordered you to perform certain acts — do not waste them. He set out limits — do not cross them. He forbade you from certain things — do not commit them. He kept silence as regards certain things out of mercy and graciousness — do not look for them."

All this proves that the Prophet was very much impressed by the principle of moderation in legislation. In elaborating this also Ibn al-Qaym says : "Legislation is based upon the good of creatures in living and dealing. It is all justice. It is full of grace and wisdom. Anything that transgresses the line of justice and mercy and benefit of the community is beyond the boundaries

of legislation, even if some try to integrate it by interpretation. Legislation is God's justice and mercy towards His creature. It is His shadow on earth."

These examples show the clemency and concern which characterise Islamic ordinances. A further instance is to be found in the rule for fasting. Fasting is a basic observance and yet special provision is made for the traveller and the sick... "If anyone is ill, or on a journey, the prescribed period should be made up later. God intends every facility for you, He does not want to put you to difficulties."

Another example is concerned with the rite of washing with water for purification before prayers. When and if there is no water available the alternative is provided for...

"And if you find no water, then take for yourselves clean sand or earth and rub therewith your faces and hands. God does not wish to place you in a difficulty but to make you clean and to complete His favour towards you that ye may be grateful."

Another example is the way he orders husbands to give their wives pleasure...

"The wealthy according to his means, and the poor according to his means,, a gift of reasonable amount."

There is a similar concern for children :

"But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall

be treated unfairly on account of her child, nor father on account of his child."

The same clemency and care show themselves as regards prohibited items of food, and the allowing of some others under certain circumstances..." He has only forbidden you dead meat, and blood, and the flesh of swine, and that on which another name has been invoked besides that of God. But if one is forced to it by necessity without wilful disobedience or transgressing due limits, then God is forgiving, most merciful.

Islam calls for the enjoyment of life and forbids monasticism; there are no monks or nuns in Islam. Men should enjoy their wives, except during certain times and periods. Man is given twice as much as woman in inheritance and that is why he is asked to take care of her be she wife, sister, or mother, and attend to her needs.

All this does not imply that there are not certain difficulties which a Muslim has to go through and endure in fulfilling his faith. However, they are difficulties that can be endured and surmounted. Amongst these are washing five times in the cold of winter, fasting during the long days of summer, fighting for the sake of a just cause, etc.

From these we get a clearer conception of the meaning of the sayings... "A time of stress makes necessary a time of ease," and "The things which are necessary throw light on the things forbidden."

Some accuse Islam of severity in relation to the punishments enforced under *Sharî'â* — to cut off the

hand of the thief, or to stone an adulterer, or to take retaliatory punishment. These accusers claim that such a punishment is contrary to mercy and does not conform with civilised standards.

To those we have one answer... this is comparable to a bitter medicine which a sick person takes to bring about a cure. It is not merciful to leave the patient suffer until he perishes because we think it unkind to administer the bitter draft. It is merciful to force him to take the medicine so that he may get better. In such cases we cannot accure a doctor of unkindness; neither can we accuse the legislator of unkindness because he calls for such punishment. The legislator is the doctor who prescribes a bitter medicine to gain the maximum good for society.

To sum up, the Islamic code of law is first and foremost a merciful code. This fact is epitomised in the words of the Qurân : "We made you, thus, a moderate people so that ye be witness to all." This moderation is the right course and one that takes cognizance both of instinct and nature, helping to keep the community intact and free from vice and corruption. This is the straight line of action taught and pointed out to us by God. This is what all Muslims recite daily in their prayers — "Show us the right course, the course of those blessed by you, not the erring or those repulsed."

Muslims possess that right course. They are guarded by their code of jurisprudence and by the Qurân. Those amongst them who choose to set themselves at

odds with it earn the wrath of God; those who swerve from the right course find themselves in error.

God showed His servants the right course, the course of moderation and He placed upon the tongue of His prophet the words : "My Lord is on the right course."

This in itself is sufficient bounty and mercy and grace.

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